午夜藍
Midnight Blue

跨性別性工作者
被捕個案實錄
Cases of Arrested Transgender Sex Workers
午夜藍是一個關注香港男性及跨性別性工作者權益的民間團體，多年來致力於建立男性及跨性別性工作者間的互助網絡。我們的宗旨是肯定性工作是工作，維護男性及跨性別性工作者權益及推動性／別平等。

Midnight Blue is a non-government organization which concerns about the male and transgender sex workers in Hong Kong. We were registered as civic organization in August, 2006. Our mission is to protect the rights of sex workers, promote decriminalization of sex work, and advocate gender equality.
午夜藍自2013年起持續跟進在香港工作的跨性別性工作者的被捕個案。截至2016年6月，我們跟進過的累積個案超過40宗，幾乎全部於審訊後被判入小欖精神病治療中心，由於當中大部份來自外地，刑期屆滿後會轉送至入境處等待遞解出境。

透過跟進個案的過程，我們逐步了解到跨性別性工作者於拘捕過程、服刑及等待遞返期間，各政府部門對跨性別性工作者的待遇。我們從中發現被捕跨性別性工作者的權利經常遭到警察、懲教署和入境處三個執法部門的嚴重侵犯。她們在被捕、服刑及等待遞返期間，皆遭受不同程度的不公平對待，有些甚至造成嚴重精神創傷。

Midnight Blue continues to follow up cases of arrested transgender sex workers in Hong Kong since 2013. Up to June 2016, we have looked into more than 40 cases cumulatively, almost all of them were sent to Siu Lam Psychiatric Centre after the trial. Since the majority of them came from other places, they would be transferred to the Immigration Department for deportation after their completion of prison term.

According to Midnight Blue’s record, transgender sex workers’ rights have been seriously infringed by three law enforcement agencies in Hong Kong, the Police Force, the Correctional Services Department and the Immigration Department. During the period that transgender sex workers were arrested, jailed, and repatriated, they have been treated unjustly to various levels which caused them severe emotional and psychological damage.
被拘捕
第200章刑事條例147
唆使 / 引誘他人作不道德行為
第115章出入境條例41條
違反逗留條件

警察局
脫光衣服，並由兩名男性警員執行搜身
小欖精神病治療中心
跨性別人士被定型是患有性別認同障礙
如果只是隆了胸，就會判入小欖的精神病治療中心的男監房

青山灣入境處
等待遣返原本的國家
單獨囚禁，獨自一人，沒有任何社交及娛樂，面對四壁，
每天只有十分鐘的時間外出洗澡，
房間的衛生差
燈更是長開

被判入獄
被剪去頭髮
再次脫光搜身
沒有提供適切的賀爾蒙藥治療
沒有提供適合跨性別的制服
沒有提供獨立的廁所
Arrest

The ordinances most frequently used for prosecution are: Chapter 200 Crimes Ordinance, s147 “Soliciting for an immoral purpose” and Chapter 115 Immigration Ordinance, s41 “Breach of condition of stay”.

Police Station

Being requested to strip naked, while the two police who did the body search were male.
**Siu Lam Psychiatric Centre**

Being stereotyped to have Gender Identity Disorder (GID).

If they just completed the breast augmentation surgery, they will be sentenced to the prison for male.

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**Castle Peak Bay Immigration Centre**

Waiting to be repatriated to their homelands.

Being confined solitarily in custodial rooms, alone, no social activities or entertainment, facing the walls.

Only have 10 minutes of showering time outside the room every day.

The hygiene in the room is very bad.

The light is on all the time.

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**Prison**

Having hair cut.

Having stripped naked body search again.

No provision of appropriate hormone treatment.

No provision of appropriate transgender costumes.

No provision of independent toilet.
The arrested transgender sex workers are male-to-female transgender. Most of them express their gender identity by keeping long hair, having breasts augmentation and taking female hormones. Some of them have undergone sex reassignment surgery, but most of them preserved their male sexual organ. Most of them come from Thailand, The Philippines, China, and Vietnam. For their own countries forbid the change of sex displayed on their identity card, or in some countries, the process of changing it is harsh and complex, the sex displayed on their identity card remain as male.

個案情況

個案中被捕的跨性別性工作者，原本生理性別為男性，而外表、打扮、自我認同皆為女性。她們大多通過蓄長髮、隆胸、使用雌性荷爾蒙等方法來表達其性別身份，其中個別人士已完成變性手術，但大部分仍保留男性性器官。我們接觸到的當事人大多來自泰國、菲律賓、中國、越南，由於她們原籍國家不允許更改身份證件的性別，或是更改條件嚴苛和手續繁複，因此無論她們是否已完成變性手術，身份證件上的性別仍然是男性。
男跨女
留長頭髮
隆了胸部,但仍保留男性的性器官(陰莖)
身份證還未把性別男(m)轉為女(f)
被引誘者反入罪

警方在拘捕行動中常使用「放蛇」手段。他們假扮嫖客，在街上主動上前向其懷疑的目標人士問價及要求服務，更用酒店房卡引誘對方共乘坐的士前往。當事人經不起引誘隨其上車，到達酒店後便立即被拘捕，罪名之一卻是「為不道德目的而唆使他人」。被引誘者反被入罪，如此荒謬之事卻一再於街頭上演。

當事人被控觸犯的法例：
- 第200章刑事條例，147條為不道德目的而唆使他人
- 第115章出入境條例，41條違反逗留條件

一般被判入獄兩個月

The Lured is Arrested

During the arrest process, the police would pretend to be customers. They would ask the suspect on the street for service and enquire the service fee. During the conservation, they would show the sex worker a hotel key card and lure her onto taxi. Once the sex worker was lured, she will be arrested when the taxi arrive the hotel. Ironically, the charge on the sex worker is “soliciting for an immoral purpose”. The lured sex worker is arrested and charged, and this ridiculous arrest process repeats and repeats on the street.

The ordinances used for prosecution are:
- Chapter 200 Crimes Ordinance, s147 “Soliciting for an immoral purpose”
- Chapter 115 Immigration Ordinance, s41 “Breach of condition of stay”.

Convicted clients usually serve sentence in the prison for 2 months.)
是否有提供服务？多少钱？
被捕後捱身受屈

警察拘捕跨性別性工作者後，將其送到警署進行捱身。當事人向我們透露，她們被要求脫光衣服，並由兩名男性警員捱身。雖然曾為男兒身，但當事人皆自我認同為女性，過程中男性警員的目光、神情、語氣及手法都令她們倍感羞辱。我們曾多次向有關警署反映情況，要求警署以尊重個人意願及維護個人尊嚴為原則，允許被捕跨性別人士選擇捱身警員的性別，但得到的回應一律是：根據內部指引，警署會依照被捕捱身者身份證明文件所顯示的性別，指派相同性別的警員進行捱身。意即就算當事人已隆胸，或已完成變性手術，而且自我認同為女性，都只會指派男性警員捱身。此種罔顧當事人尊嚴的手法，無疑是對人權的粗暴踐踏，更有可能給當事人帶來巨大心理創傷。

Humiliating Body Search

The arrested transgender sex worker would be taken to the police station to undergo body search. One of the arrested transgender sex workers tells us that the police requested her to take off all her clothes, and she was searched by two male police. Even though she is physically male, she identifies herself as a female. During the body search, the attitude, gaze and tone of the police were humiliating. We have reflected this issue to the police many times, requesting them to respect the rights of the transgender and allow them to choose whether female or male police to search their body. However, they replied us, stating that according to internal guidelines, the police would assign the same sex officer to perform body search according to the sex displayed on the identity card or passport of the arrested. It means even they have breasts augmentation, sex reassignment surgery and self-identified as female, the police will still assign male police to perform the body search. This arrangement severely tramples on the dignity of the transgender person, and would cause psychological damage to them.
In Hong Kong, transgender person is still being regarded as having gender identity disorder (GID) or gender dysphoria. For there are only male and female prisons in Hong Kong, transgender sex workers will be sent to Siu Lam Psychiatric Centre for imprisonment. The Correctional Services Department stressed that sending transgender person to either male or female prison would cause them damage in various ways. Moreover, there are stationed doctors in Siu Lam Psychiatric Centre. Therefore, the transgender sex workers would be sent to the psychiatric center.

If the person has undergone the male-to-female sex reassignment surgery, she will be sentenced to the female cell in the psychiatric center. If they only have breast augmentation, they will be sent the male cell. This arrangement still regards transsexuality and transgender as mental disorder, for those who has a longer imprisonment, imprisoned with other mental illness patients itself is a psychological torture. Despite having doctors stationed in the center, they have limited knowledge on transgender. The transgender sex workers still face a lot of difficulties during the imprisonment there.
有性别认同障碍
Gender Identity Disorder
Haircut and Strip Search

According to Prison Rules Chapter 234A, rules 9 and 34, the correctional staff have a statutory duty to “search” the rectum, nostrils, and any other external orifice of a prisoner, because the prisoner should follow “directions as to cleanliness”, including bathing, shaving and hair cutting. Male prisoners aged below 25 who are sentenced to detention centers or training center should have their hair cut to “flattop”, the imprisoned adult male prisoners should also have their hair cut regularly, and should not keep long hair. Transgender prisoners are identified as male on their identity cards, so their hair are cut and have to undergo strip search by male correctional staff.

Hair is very significant to transgender people, keeping long hair is a way to indicate and confirm the gender identity of them. Therefore, cutting their hair means rejecting their female gender identity. While female prisoners have the right to keep their long hair, male-to-female transgender must have their hair cut. This unequal treatment is already a discrimination against transgender persons.
得不到適切的賀爾蒙治療

本機構個案中的跨性別性工作者都有服用賀爾蒙，有些更是於幼年已經開始服用，長達6-7年。而由於被監禁，她們突然被迫停止服用賀爾蒙，導致身體出現不適反應甚至出現男性特徵，例如：脫髮、長出鬍鬚、皮膚粗糙生暗瘡、聲線變粗等等。而伴隨這種生理影響的是巨大的心理壓力。我們曾跟進的一位跨性別在囚人士，其刑期長達一年，而小欖監獄卻沒有提供適切的賀爾蒙治療，致使她生理上受到前述所有負面影響之餘，更因為害怕變回男性身體，刑滿後將無法重新進入以前的生活，導致心理受到極大創傷，終日以淚洗面。最終本機構與她經歷長達8個月的爭取，她才獲得所需的賀爾蒙治療。執法部門對跨性別人士需求和權益的無知與無視實在令人髮指。

No Provision of Appropriate Hormone Therapy

Most of the transgendered sex workers we have contacted have been taking female hormone, and some of them started the hormonal therapy when they were young and has been continued for at least 6-7 years. Due to the imprisonment, they were forced to stop the therapy. It makes them unwell, and the male sexual features reappear, e.g. hair loss, mustache growth, voice change, etc. These physical changes cause them huge psychological and emotional pressure. One of the transgender sex workers we have contacted was sentenced for one year. However, Siu Lam Psychiatric Centre did not provide appropriate hormonal therapy for her, causing her to suffer the above mentioned symptoms. She was anxious about her sexuality which would be changed to male again that she could not resume her life after the imprisonment. She was psychologically traumatized and depressed. Midnight Blue has fought with her on the access to hormonal therapy for 8 months, and finally she was allowed to resume it. How the law enforcement departments mistreat and disregard the rights of transgender prisoners is disgraceful.
Male-to-female transgender prisoners were not given individual toilet, and they were forced to share toilet and washroom with other male prisoners. One of the transgender sex workers told us that when she was using the toilet, another prisoner broke in and stared at her, and asked her to offer oral sex for him. Under the current arrangement, the safety of transgender prisoners is highly threatened.

Male-to-female transgender people who have not completed the sex reassignment surgery (still keeping their penis) will be sent to male prison. However, most transgender have finished breast augmentation surgery, but the Correctional Services Department still insists to assign male clothing to them and refuse to provide them bra. This arrangement embarrassed them during the imprisonment, and at the same time increase the risk of them being sexually harassed.
Most of the arrested transgender sex workers are not local residents. When their imprisonment at Siu Lam Psychiatric Centre is over (Upon serving their time in Siu Lam Psychiatric Centre,) they will be sent to the Castle Peak Bay Immigration Centre, waiting to be repatriated to their homeland. The waiting period lasts for around a week, and they will be confined solitarily in custodial rooms. It means they will be confined in a tiny cell, with no social activities or entertainment, and they have only 10 minutes of showering time every day, which is also their only 10 minutes outside of the tiny cell. The hygiene in the room is very bad where there are cockroaches. The light in the cell is on for 24 hours which severely exploit their right to sleep. One transgender sex worker mentioned that the waiting period is torturing. Every second is like year to pass, which is intolerable. Midnight Blue has requested the welfare officer to improve the situation, but they never gave any proper reply and the situation has never been improved.

According to the United Nations Convention against Torture, solitary confinement cannot be exceeding 15 days, or else it should be regarded as torture. As they have completed their imprisonment in the psychiatric center, they should be free. However, they are confined solitarily, which is a breach to human right. One of the transgender sex workers has been confined solitarily for over a month which caused her severe psychological damage.
We have been continuously receiving cases of arrested transsexual sex workers since 2013. We notice that they are being treated inhumanely by some legal enforcement agencies such as the Police Force, the Correctional Services Department and the Immigration Department. Over the years, we continued to complain and protest against different government departments. We request them to examine the current working instructions, increase the transparency of the instruction and reformulate the new guidelines that concerns about the transgender people.

When we are following up different cases, we have sent our complaints to the above departments, and launched the "Don't cut my hair" campaign. We acknowledge that the Correctional Services Department would never cut the long hair of the arrested transgender. Still, whether it is the Police Force, the Correctional Services Department or the Immigration Department, the treatment of the transgender sex workers is still in desperate need of improvement.

Therefore, Midnight Blue demands for the Correctional Services Department, the Police Force and the Immigration Department to examine and improve the treatment of the transgender people immediately in order to safeguard their human rights. We also request the mentioned law enforcement agencies to increase the transparency of the working guidelines and reformulate the transgender people-friendly working guidelines.
電話  2493 4555
Tel

電郵  info@mnbhk.org
Email

郵箱地址  九龍旺角郵政信箱78757號
Address  Box 78757, Mong Kok Post Office, Kowloon, Hong Kong

活動中心開放時間
星期一至五  上午10時至下午1時 / 下午2時至下午6時
星期六、日及公眾假期休息

Opening Hour
Monday to Friday 10am - 1pm / 2pm - 6pm
Saturday, Sunday and Public Holiday Close